

1-1 By: West S.B. No. 355
 1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,
 1-3 read first time and referred to Committee on Jurisprudence;
 1-4 March 4, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; March 4, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			

1-15 COMMITTEE SUBSTITUTE FOR S.B. No. 355 By: Paxton

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the powers and duties of the Title IV-D agency regarding
 1-19 the establishment, collection, and enforcement of child support and
 1-20 in connection with an application for a marriage license or
 1-21 protective order; providing an administrative fine.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subsection (c), Section 2.009, Family Code, is
 1-24 amended to read as follows:

1-25 (c) On the proper execution of the application, the clerk
 1-26 shall:

1-27 (1) prepare the license;
 1-28 (2) enter on the license the names of the licensees,
 1-29 the date that the license is issued, and, if applicable, the name of
 1-30 the person appointed to act as proxy for an absent applicant, if
 1-31 any;

1-32 (3) record the time at which the license was issued;

1-33 (4) distribute to each applicant printed materials
 1-34 about acquired immune deficiency syndrome (AIDS) and human
 1-35 immunodeficiency virus (HIV) and note on the license that the
 1-36 distribution was made; and

1-37 (5) inform [distribute to] each applicant:

1-38 (A) that a premarital education handbook
 1-39 developed [provided] by the child support division of the office of
 1-40 the attorney general under Section 2.014 is available on the child
 1-41 support division's Internet website; or

1-42 (B) if the applicant does not have Internet
 1-43 access, how the applicant may obtain a paper copy of the handbook
 1-44 described by Paragraph (A).

1-45 SECTION 2. Subsections (b) and (c), Section 2.014, Family
 1-46 Code, are amended to read as follows:

1-47 (b) Money in the trust fund is derived from depositing \$3 of
 1-48 each marriage license fee as authorized under Section 118.018(c),
 1-49 Local Government Code, and may be used only for:

1-50 (1) the development [~~and distribution~~] of a premarital
 1-51 education handbook;

1-52 (2) grants to institutions of higher education having
 1-53 academic departments that are capable of research on marriage and
 1-54 divorce that will assist in determining programs, courses, and
 1-55 policies to help strengthen families and assist children whose
 1-56 parents are divorcing;

1-57 (3) support for counties to create or administer free
 1-58 or low-cost premarital education courses;

1-59 (4) programs intended to reduce the amount of
 1-60 delinquent child support; and

2-1 (5) other programs the attorney general determines
2-2 will assist families in this state.

2-3 (c) The premarital education handbook under Subsection
2-4 (b)(1) shall be made available [~~distributed~~] to each applicant for
2-5 a marriage license as provided by Section 2.009(c)(5) and shall
2-6 contain information on:

- 2-7 (1) conflict management;
- 2-8 (2) communication skills;
- 2-9 (3) children and parenting responsibilities; and
- 2-10 (4) financial responsibilities.

2-11 SECTION 3. Section 82.004, Family Code, is amended to read
2-12 as follows:

2-13 Sec. 82.004. CONTENTS OF APPLICATION. An application must
2-14 state:

- 2-15 (1) the name and county of residence of each
2-16 applicant;
- 2-17 (2) the name and county of residence of each
2-18 individual alleged to have committed family violence;
- 2-19 (3) the relationships between the applicants and the
2-20 individual alleged to have committed family violence; [~~and~~]
- 2-21 (4) a request for one or more protective orders; and
- 2-22 (5) whether an applicant is receiving services from
2-23 the Title IV-D agency in connection with a child support case and,
2-24 if known, the agency case number for each open case.

2-25 SECTION 4. Subsection (a), Section 85.042, Family Code, is
2-26 amended to read as follows:

2-27 (a) The clerk of the court issuing an original or modified
2-28 protective order under this subtitle shall send a copy of the order,
2-29 along with the information provided by the applicant or the
2-30 applicant's attorney that is required under Section 411.042(b)(6),
2-31 Government Code, to:

- 2-32 (1) the chief of police of the municipality in which
2-33 the person protected by the order resides, if the person resides in
2-34 a municipality;
- 2-35 (2) [~~or to~~] the appropriate constable and the
2-36 sheriff of the county in which the person resides, if the person
2-37 does not reside in a municipality; and
- 2-38 (3) the Title IV-D agency, if the application for the
2-39 protective order indicates that the applicant is receiving services
2-40 from the Title IV-D agency.

2-41 SECTION 5. Subsection (a-2), Section 156.401, Family Code,
2-42 is amended to read as follows:

2-43 (a-2) A court or administrative order for child support in a
2-44 Title IV-D case may be modified at any time, and without a showing
2-45 of material and substantial change in the circumstances of the
2-46 child or a person affected by the order, [as provided under Section
2-47 233.013(c)] to provide for medical support of the [a] child if the
2-48 order does not provide health care coverage as required under
2-49 Section 154.182.

2-50 SECTION 6. Section 158.106, Family Code, is amended to read
2-51 as follows:

2-52 Sec. 158.106. REQUIRED FORMS FOR INCOME WITHHOLDING. (a)
2-53 The Title IV-D agency shall prescribe forms as required by federal
2-54 law in a standard format entitled order or notice to withhold income
2-55 for child support under this chapter.

2-56 (b) The Title IV-D agency shall make the required
2-57 [~~appropriate~~] forms available to obligors, obligees, domestic
2-58 relations offices, friends of the court, clerks of the court, and
2-59 private attorneys.

2-60 (c) The Title IV-D agency may prescribe additional forms for
2-61 the efficient collection of child support from earnings and to
2-62 promote the administration of justice for all parties.

2-63 (d) The forms prescribed by the Title IV-D agency under this
2-64 section shall [~~may~~] be used:

- 2-65 (1) for an order or judicial writ of income
2-66 withholding under this chapter; and
- 2-67 (2) to request voluntary withholding under Section
2-68 158.011.

2-69 SECTION 7. Section 158.203, Family Code, is amended by

3-1 amending Subsection (d) and adding Subsections (e) and (f) to read
3-2 as follows:

3-3 (d) In a case in which an obligor's income is subject to
3-4 withholding, the employer shall remit the payment of child support
3-5 directly to ~~[a local registry, the Title IV-D agency, or to]~~ the
3-6 state disbursement unit.

3-7 (e) The Title IV-D agency may impose a fine in an amount not
3-8 to exceed \$25 for each violation by an employer described by
3-9 Subsection (b) who fails without good cause to use electronic funds
3-10 transfer or electronic data interchange to comply with this
3-11 section. Each occurrence of noncompliance with respect to each
3-12 employee constitutes a separate violation.

3-13 (f) A court may compel compliance with an administrative
3-14 fine described by Subsection (e) and may award attorney's fees and
3-15 costs to the Title IV-D agency in enforcing the electronic funds
3-16 transfer or electronic data interchange requirement under
3-17 Subsection (b) on proof that the employer failed without good cause
3-18 to comply with that requirement.

3-19 SECTION 8. Subsection (e), Section 201.101, Family Code, is
3-20 amended to read as follows:

3-21 (e) If a county has entered into a contract with the Title
3-22 IV-D agency under Section 231.0011, enforcement services may be
3-23 directly provided in cases identified under the contract by county
3-24 personnel as provided under Section 231.0011(d), including judges
3-25 and associate judges of the courts of the county.

3-26 SECTION 9. Section 231.002, Family Code, is amended by
3-27 adding Subsection (j) to read as follows:

3-28 (j) In the enforcement or modification of a child support
3-29 order, the Title IV-D agency is not:

3-30 (1) subject to a mediation or arbitration clause or
3-31 requirement in the order to which the Title IV-D agency was not a
3-32 party; or

3-33 (2) liable for any costs associated with mediation or
3-34 arbitration arising from provisions in the order or another
3-35 agreement of the parties.

3-36 SECTION 10. Subsection (a), Section 232.0135, Family Code,
3-37 is amended to read as follows:

3-38 (a) A child support agency, as defined by Section 101.004,
3-39 may provide notice to a licensing authority concerning an obligor
3-40 who has failed to pay child support under a support order for six
3-41 months or more that requests the authority to refuse to approve
3-42 ~~[accept]~~ an application for issuance of a license to the obligor or
3-43 renewal of an existing license of the obligor.

3-44 SECTION 11. Subsections (a) and (b), Section 233.013,
3-45 Family Code, are amended to read as follows:

3-46 (a) The Title IV-D agency may use any information obtained
3-47 by the agency from the parties or any other source and shall apply
3-48 the child support guidelines provided by this code to determine the
3-49 appropriate amount of child support. In determining the
3-50 appropriate amount of child support, the agency may consider
3-51 evidence of the factors a court is required to consider under
3-52 Section 154.123(b), and, if the agency deviates from the guidelines
3-53 in determining the amount of monthly child support, with or without
3-54 the agreement of the parties, the child support review order must
3-55 include the findings required to be made by a court under Section
3-56 154.130(b).

3-57 (b) If it has been three years since a child support order
3-58 was rendered or last modified and the amount of the child support
3-59 award under the order differs by either 20 percent or \$100 from the
3-60 amount that would be awarded under the child support guidelines,
3-61 the Title IV-D agency may ~~[shall]~~ file an appropriate child support
3-62 review order, including an order that has the effect of modifying an
3-63 existing court or administrative order for child support without
3-64 the necessity of filing a motion to modify.

3-65 SECTION 12. Section 233.019, Family Code, is amended by
3-66 adding Subsection (e) to read as follows:

3-67 (e) If a party timely files a motion for a new trial for
3-68 reconsideration of an agreed review order and the court grants the
3-69 motion, the agreed review order filed with the clerk constitutes a

4-1 sufficient pleading by the Title IV-D agency for relief on any issue
 4-2 addressed in the order.

4-3 SECTION 13. The heading to Section 233.027, Family Code, is
 4-4 amended to read as follows:

4-5 Sec. 233.027. NONAGREED ORDER AFTER HEARING [~~; EFFECT OF~~
 4-6 ~~CONFIRMATION ORDER~~].

4-7 SECTION 14. Subsections (a) and (c), Section 233.027,
 4-8 Family Code, are amended to read as follows:

4-9 (a) After the hearing on the confirmation of a nonagreed
 4-10 child support review order, the court shall:

4-11 (1) if the court finds that the nonagreed order should
 4-12 be confirmed, immediately sign the nonagreed [~~a confirmation~~] order
 4-13 and enter the order as a final [~~an~~] order of the court;

4-14 (2) if the court finds that the relief granted in the
 4-15 nonagreed child support review order is inappropriate, sign an
 4-16 appropriate order at the conclusion of the hearing or as soon after
 4-17 the conclusion of the hearing as is practical and enter the order as
 4-18 an order of the court; or

4-19 (3) if the court finds that all relief should be
 4-20 denied, enter an order that denies relief and includes specific
 4-21 findings explaining the reasons that relief is denied.

4-22 (c) If the party who requested the hearing fails to appear
 4-23 at the hearing, the court shall sign the nonagreed [~~a confirmation~~]
 4-24 order and enter the order as an order of the court.

4-25 SECTION 15. Subsections (a), (b), and (c), Section 234.007,
 4-26 Family Code, are amended to read as follows:

4-27 (a) ~~A [The Title IV-D agency shall notify the courts that~~
 4-28 ~~the state disbursement unit has been established. After receiving~~
 4-29 ~~notice of the establishment of the state disbursement unit, a]~~
 4-30 court that orders income to be withheld for child support shall
 4-31 order that all income ordered withheld for child support shall be
 4-32 paid to the state disbursement unit.

4-33 (b) In order to redirect payments [~~from a local registry~~] to
 4-34 the state disbursement unit [~~after the date of the establishment of~~
 4-35 ~~the state disbursement unit~~], the Title IV-D agency shall issue a
 4-36 notice of place of payment informing the obligor, obligee, and
 4-37 employer that income withheld for child support is to be paid to the
 4-38 state disbursement unit and may not be remitted to a local registry,
 4-39 the obligee, or any other person or agency. If withheld support has
 4-40 been paid to a local registry, the Title IV-D agency shall send the
 4-41 notice to the registry to redirect any payments to the state
 4-42 disbursement unit.

4-43 (c) A copy of the notice under Subsection (b) shall be filed
 4-44 with the court of continuing jurisdiction [~~and with the local child~~
 4-45 ~~support registry~~].

4-46 SECTION 16. Section 234.101, Family Code, is amended by
 4-47 adding Subdivision (3) to read as follows:

4-48 (3) "Newly hired employee" means an employee who:

4-49 (A) has not been previously employed by the
 4-50 employer; or

4-51 (B) was previously employed by the employer but
 4-52 has been separated from that employment for at least 60 consecutive
 4-53 days.

4-54 SECTION 17. Subsection (b), Section 233.027, Family Code,
 4-55 is repealed.

4-56 SECTION 18. (a) The changes in law made by this Act to
 4-57 Sections 2.009 and 2.014, Family Code, apply only to an application
 4-58 for a marriage license submitted on or after the effective date of
 4-59 this Act. An application for a marriage license submitted before
 4-60 the effective date of this Act is governed by the law in effect on
 4-61 the date the application was submitted, and the former law is
 4-62 continued in effect for that purpose.

4-63 (b) The changes in law made by this Act to Sections 82.004
 4-64 and 85.042, Family Code, apply only to an application for a
 4-65 protective order filed on or after the effective date of this Act.
 4-66 An application for a protective order filed before the effective
 4-67 date of this Act is governed by the law in effect on the date the
 4-68 application was filed, and the former law is continued in effect for
 4-69 that purpose.

5-1 (c) The change in law made by this Act to Subsection (d),
5-2 Section 158.203, Family Code, applies only to a child support
5-3 withholding remitted by an employer on or after the effective date
5-4 of this Act. A child support withholding remitted by an employer
5-5 before the effective date of this Act is governed by the law in
5-6 effect on the date the withholding was remitted, and the former law
5-7 is continued in effect for that purpose.

5-8 (d) The change in law made by this Act to Section 158.203,
5-9 Family Code, in adding Subsections (e) and (f) applies only to an
5-10 act of noncompliance that occurs on or after the effective date of
5-11 this Act. An act of noncompliance that occurs before the effective
5-12 date of this Act is governed by the law in effect on the date the act
5-13 occurred, and the former law is continued in effect for that
5-14 purpose.

5-15 (e) The changes in law made by this Act to Section 233.013,
5-16 Family Code, apply only to a child support review order filed on or
5-17 after the effective date of this Act. A child support review order
5-18 filed before the effective date of this Act is governed by the law
5-19 in effect on the date the order was filed, and the former law is
5-20 continued in effect for that purpose.

5-21 (f) The change in law made by this Act to Section 233.019,
5-22 Family Code, applies only to a motion for a new trial filed on or
5-23 after the effective date of this Act. A motion for a new trial filed
5-24 before the effective date of this Act is governed by the law in
5-25 effect on the date the motion was filed, and the former law is
5-26 continued in effect for that purpose.

5-27 (g) The change in law made by this Act to Section 233.027,
5-28 Family Code, applies to a child support review order that is pending
5-29 before a trial court on or filed on or after the effective date of
5-30 this Act.

5-31 SECTION 19. This Act takes effect September 1, 2013.

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